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UNDERGROUND STORAGE TANK SECTION

November 1, 2002

Environmental Service Companies and Consultants

SUBJECT: State Trust Fund Policy Updates and Clarifications

Due to numerous calls and letters and in the interest of promoting the steady and timely reimbursement of all submitted STF claims for the benefit of the responsible parties, consulting firms and current State Trust Fund staff, this policy update is being provided. All policies listed within this memo are in effect as of the date of the memo, except in the situation where clarifications of current State Trust Fund policies are being made or otherwise noted.

I. New Eligibility Application

There is a new eligibility application located on the Division of Waste Management website, under the Financial Heading, UST Trust Funds, and Eligibility Forms. The new form can be completed online and then printed to be mailed. Please use this form effective immediately. Any applications submitted on the outdated forms that are postmarked after November 15, 2002 will be returned as incomplete. Please be sure to follow all directions and provide all requested information to ensure the efficient processing of the application. Applications are not to be submitted without an Incident Number or proper certification. Incomplete applications will be returned to the applicant. Applications are processed in the date order that the complete application is submitted.

II. Bidding

Please be reminded that all bids must be notarized in accordance with the April 5, 2001 memo that was released by the State Trust Fund. All bids **must be notarized** by the vendor prior to the start of the work. If the consultant requesting the bids wishes to bid on the work, then their bid must be the first (earliest date) to be notarized and submitted. Bids are not to include markups, but should include all applicable state and local sales taxes and shipping and handling charges.

III. Drilling Accessories

This is a restatement of existing State Trust Fund policies concerning the rental of accessory equipment such as compressors, saws, etc. If this equipment is rented, then the claim package **must** include the original invoice from the rental company. This is not a new policy. It has come to our attention that many drilling service providers own this equipment and have been charging for the rental of this equipment. Only rented equipment is reimbursable and then only up to the purchase price of the equipment. Renting of the equipment by the drilling subcontractor to the RP does not constitute rental of the equipment.

IV. Drilling Work Plans and Well Abandonment

Drilling work plans are for **all** phases of drilling (installation, development, abandonment, etc.) and for **all** wells being installed at the time of the work plan. A new work plan is not reimbursable at each phase. Additionally, the work plans must be detailed enough that the certified well driller can abandon the wells. The consultant will not be reimbursed for watching the well driller abandon the wells. The drillers are certified and the certification process is sufficient to ensure that the wells are abandoned properly. If you discover that a well is not abandoned in accordance with the appropriate rules and regulations then you must report this to the regional office immediately.

V. Claim Submittals

On April 15, 2002, the State Trust Fund revised the claim submittal policy to allow the submittal of multiple pre-approvals with the single claim per quarter. This policy was scheduled to expire on October 31, 2002, but after evaluating the effects of this policy, the State Trust Fund has decided to allow the policy of multiple pre-approvals per claim. Please be reminded that the pre-approval is closed in the claim in which it is submitted. Pre-approvals **will not be** carried over into future claims.

VI. Land Use Restrictions

With the passage of the new land use restriction legislation (HB 1575), once a site meets the 2L risk based rules cleanup goals for commercial/industrial or residential contamination no further cleanup costs will be reimbursed except for deed recordation costs. A property owner may continue to conduct assessment and remediation at the site in an effort to remove the deed recordation but the work will not be eligible for reimbursement. Any work at commercial or non-commercial sites requiring the physical supporting of an onsite building or other structure as part of contaminated soil removal must be determined to be economically and technically feasible prior to the work being conducted and must be pre-approved.

VII. Water Supply Well Sampling

The State Trust Fund considers contamination discovered in third party water supply wells "loss of normal use of property" [15A NCAC 2P .0403 c] in that another source of water must be made available to the affected household. It is not necessary for a lawsuit to be filed against the tank owner or operator to document that a third party cost has been incurred. Continuous sampling of active water supply wells to monitor the effectiveness of a corrective action system is not allowed because a supply well cannot effectively be used in place of a monitor well since the well may not be in contact with the aquifer to be monitored.

Costs for sampling active water supply wells will be considered based on the following:

1. First time sampling of water supply wells as part of an assessment counts as cleanup related costs because the information obtained is used to determine the impact to the environment and public health.
2. Subsequent sampling of previously determined clean water supply wells, contaminated water supply wells or first time sampling after completion of an assessment, all at the specific request of a third party, will be considered third party costs and counted towards

the \$100,000 third party deductible for the site.

VIII. Project Summary Page

It is very important that you take the time to provide a detailed explanation of what activities are included in the claim that you are submitting. A statement of the task code being used is not sufficient. If you are submitting a claim that includes both pre-approved and non pre-approved costs, you must list those costs separately in the project summary or the costs may be reduced as not having been pre-approved.

IX. Site Checks

If you are required to conduct a site check at a site in order to determine if a release has occurred, the task code for this is **6.033** and the maximum rate that is allowed at this time is **\$735.00**.

X. Mobile Multi Phase Extraction (MMPE)

The Trust Fund Branch has been evaluating the use of mobile multi-phase vacuum extraction (MMPEs) units at UST incidents. Based on recommendations from the Innovative Technology Committee and favorable reports from other states allowing this technology, the Trust Fund Branch is now allowing these systems on sites that are eligible for State Trust Fund reimbursement.

Please be aware that although some call these systems "dual-phase", they are not dual-phase in the traditional sense where both a vacuum is applied and a groundwater pump is submerged in the well. Multi-phase units use down-hole stingers or drop tubes that are lowered to the proximity of the water table with a negative pressure being applied. This process is essentially no different than that of AFVR. However, applying a continuous vacuum for a longer period of time (week or month) apparently enables this unit to be more effective than AFVR at many sites.

Use of these systems should be limited to sites with free product (especially where AFVR has not been effective) and intermediate risk sites where the cleanup goal is to reduce dissolved phase concentrations below Gross Contaminant Levels (GCLs). Certain high-risk sites may also be considered. The first event should be limited to one week (5 days/24 hours a day) with site data collected to evaluate performance. An OVA or TVA should be used periodically during the event (at least once per day) to measure TPH concentrations from the stack or discharge outlet if gasoline free product (either liquid- or dissolved-phase) is being recovered. At this time, emissions calculations will not be required. The following data should be collected and recorded in the appropriate report (Free Product Recovery Report or Remediation Monitoring Report): total fluids recovered, total liquid free product recovered, TPH concentrations (from OVA/TVA), negative pressures at pump and wellhead(s) (both recovery wells and nearby monitoring wells), water levels in surrounding wells before, during, and after the event, actual system run-time, and before- and after-event levels of free product (if present) in recovery wells.

Maximum rental rates for the units are based on the flow rate capacity of the pumps measured in cubic feet per minute (cfm). These rates are listed on the attached secondary form that should be completed by the consultant and submitted with the claim. Costs for system setup, sub-contractor supervision and O&M may be charged under Task 7.201. The consultant may claim

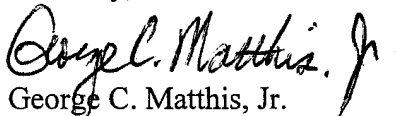
supervision under Task 7.201 for the first and last days of the event only. They may also claim one-person travel, Task 12.010 for the two days at which they visit the site. Over night lodging is not allowed for the consultant and may only be claimed by the subcontractor conducting the MMPE. In the proposal from the consultant, make sure to provide the maximum vacuum pressure (in inches Hg) and corresponding flow rate (in CFM) at which the pump can be operated continuously. At this time, the pump used must be rated at a minimum of 20" of Hg at the prescribed cfm flow rates on the secondary form. However, the Trust Fund Branch may waive this requirement, if adequate justification can be made by the consultant to use a lower-rated pump.

At this time, the minimum capacity allowed for the storage frac tank or tanker must be 4,000 gallons in order to minimize the number of trips to dispose of the contents. If there are concerns that the multi-phase unit will generate excessive quantities of fluids at a given site, then this technology may not be the most cost-effective approach.

After receiving the proposal and justification for use of the system from the consultant, if you think this technology may be appropriate for the site, please fax the proposal and supporting documentation to Scott Ryals at (919) 733-9413 and we will evaluate the request as quickly as possible. Once this technology has been applied at several sites, the Trust Fund Branch will compile the data and determine more definitively what the system requirements should be for future sites as well as the type of sites where this technology may be appropriate.

If you have any questions concerning this letter, please contact me at (919) 733-1332 or Scott Ryals at (919) 733-1318.

Sincerely,



George C. Matthis, Jr.
Head, Trust Fund Branch
UST Section

Attachment

cc: Grover Nicholson
Trust Fund Branch
Corrective Action Branch